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2181 RAYBURN HOUSE OFFICE BUILDING
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September 26, 2006

The Honorable Alberto Gonzalez
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Gonzalez:

Last week, the Department of Education's Inspector General issued a scathing report documenting the steering of billions of dollars of public education funds (Reading First grants) by Department of Education officials to favored vendors in violation of: education statutes and the directives of Congress; the Department's own rules, policies, and procedures; and the GAO's accountability compliance standards.

The IG report documents how the Department of Education systematically ignored federal laws and policies to direct funds to its favored vendors, in lieu of an objective evaluation of grants from states and local education agencies. For example, the Department stacked expert panels with individuals who had "significant professional connections to a teaching methodology" that requires use of a "specific reading program." Further, the Department failed to disclose these conflicts of interest, and allowed these panels to allocate federal funds based on the panel's bias instead of the best interests of students.

The IG determined that a sample question to detect conflicts of interest by expert panelists written by the Department's ethics attorney ("Are you aware of any other circumstances that might cause someone to question your impartiality in serving as reviewer for this competition?") was intentionally deleted from the ethics questions asked of expert panelists. According to the report, the ethics attorney who drafted this question said it was "designed to exclude individuals who had financial connections to products or programs or who had the appearance of a conflict of interest." Thus, it became possible for panelists to have professional connections to a teaching methodology that requires a specific reading program, as at least six of the panelists do. Although IG does not document whether and the extent to which these reviewers had financial

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relationships with publishers or other Reading First vendors, this concern requires additional investigation by the IG and by your office.

The IG report documents that the Reading First Director personally nominated three individuals who have significant professional connections to a program called "Direct Instruction" to serve on review panels. Direct Instruction is a model for teaching that requires the use of "Reading Mastery," a program published by SRA/McGraw-Hill, to teach reading. The IG documents an email exchange about whether the Department was going to stack the review panels. The Reading First director wrote: "Stack the panel? ... I have never heard of such a thing...<harrumph, harrumph>[.]"

Further tainting the grant process, the IG report documents that the Department of Education intervened to influence a State's selection of reading programs, and intervened to influence reading programs being used by local education agencies after the application process was completed. For example, the IG report documents how the Reading First Director bullied local programs who had planned to use Rigby Literacy or Wright Group literacy instead of Department-preferred vendors. In an e-mail correspondence with a staff member regarding the Wright Group, the Reading first Director stated:

"Beat the [expletive deleted] out of them in a way that will stand up to any level of legal and apologist scrutiny...they are trying to crash our party and we need to beat the [expletive deleted] out of them in front of all the other would be party crashers who are standing on the front law waiting to see how we welcome these dirt bags."

The Reading First Director also engaged in emails with Reid Lyon, President Bush's top reading advisor, to undermine Rigby Literacy. In an e-mail to Lyon, the Reading First Director brags that it got "Maine to UNDO its already-made decision to have Rigby be one of their two approved core programs (Ha, ha – Rigby as a CORE program? When pigs fly. We also as you may recall got NJ to stop its districts from using Rigby and are doing the same in Mississippi. This is for your FYI, as I think this program bashing is best done off or under the major radar screens."

The IG cited GAO's Standard for Internal Control in the Federal Government which requires that "the integrity and ethical values be maintained and demonstrated by management and staff." It concludes that stacking the panels with individuals reflecting the Reading First Director's personal preference and other manipulations of the assessment panels "demonstrated a lack of integrity and ethical values" that allowed for violations of laws and regulations.

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Taken together, the IG documents a systematic, concerted, intentional scheme to flaunt federal laws and regulations and steer billions in Reading First grants to favored vendors. This conduct is expressly prohibited by federal ethics regulations (5 CFR 2635.101), which require employees to "put forth honest effort in the performance of their duties" and require that "employees shall act impartially and not give preferential treatment to any private organization or individual."

Section 18 USC 371 is a broad federal law that prohibits any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of government. Although the IG report indicates clearly a number of states and school districts were cheated out of grant funds improperly, this criminal statute does not even require a showing of financial loss. A violation occurs if there is proof of interference with or obstruction of lawful government functions by deceit, craft or trickery, or dishonesty.

I request that your office review the IG report and determine whether the actions of Department officials or others acting in conjunction with the Department to flagrantly ignore education laws, ethical rules, and administrative procedures in order to steer billions in 'Reading First' funds over a number of years funds violated federal corruption or conflict of interest laws.

Sincerely,

A handwritten signature in black ink that reads "George Miller". The signature is written in a cursive, flowing style with a large initial "G".

GEORGE MILLER
Senior Democratic Member